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May 29, 2025

VIA ELECTRONIC FILING

The Honorable William C. Bryson
Howard T. Markey National Courts
Building
717 Madison Place, NW
Washington, DC 20439

Re: *Kaneka Corporation v. Designs for Health, Inc., et al.*,
C.A. No. 21-209-WCB

Dear Judge Bryson:

Defendants Designs for Health, Inc. and American River Nutrition LLC (collectively, “Defendants”) respectfully submit this letter brief in response to Plaintiff Kaneka Corporation’s motion to extend the expert discovery deadline (D.I. 346) and further in view of the Court’s Oral Order issued shortly thereafter (D.I. 347). While Defendants believe that Plaintiff’s request is both unnecessary and prejudicial, Defendants nonetheless understand that the Court has ordered Defendants’ expert, Dr. Banakar, to sit for deposition between June 9 and June 30. As reflected below, Dr. Banakar can be made available for a single deposition on June 26th in Chicago.

By way of relevant background, Dr. Banakar has, for years, conducted training seminars for both academic and industrial clients across the globe, in addition to his other academic and consulting engagements. While those seminars occur throughout the year, typically, Dr. Banakar’s seminar schedule contains a significant concentration of engagements near the end of the academic calendar. For example, we understand that between May and July 2025, Dr. Banakar has scheduled numerous academic and industrial engagements in at least three different countries across the globe. Dr. Banakar advised that all these engagements were scheduled long before Dr. Banakar became involved with this matter.

Following entry of the Revised Scheduling Order on April 10, 2025, Defendants promptly advised Dr. Banakar of the amended expert discovery schedule and reconfirmed his availability to attend trial and sit for deposition during the rescheduled expert discovery period. Dr. Banakar advised that his schedule was extremely busy during the expert discovery period, but that he understood the need to find a date for deposition during the scheduled period. Accordingly, Dr. Banakar rescheduled an international engagement the week of June 2nd to accommodate a June 4th

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deposition, impacting a clinical trial in Turkey. Among his prior engagements that cannot be moved is a teaching engagement at the National Institute of Pharmaceutical Education and Research in India the week of June 9th.

Shortly after serving Dr. Banakar's opening expert report, on May 16, 2025, counsel for Defendants notified Plaintiff that Dr. Banakar was available for deposition on June 4th in Chicago. (Ex. 1, 5-16-25 P. Molino E-mail). Plaintiff did not object at that time, instead confirming that it would "take Dr. Banakar's deposition on June 4 in Chicago" in a May 20, 2025 e-mail. (Ex. 2, 5-20-25 G. Griffin E-mail). Plaintiff's counsel then suggested that a second deposition of Dr. Banakar was warranted and asked for additional availability the week of June 9th. (*Id.*) Defendants' counsel thereafter explained that Dr. Banakar is not available the week of June 9th and disagreed with Plaintiff's position that it was entitled to a second deposition.

Despite Defendants' (and Dr. Banakar's) already significant efforts to schedule a deposition in this matter, following the Court's Oral Order, we consulted with Dr. Banakar in view of that Order. He has made further adjustments to his schedule, including international travel arrangements, and Defendants can now confirm that Dr. Banakar can be available for deposition in Chicago, Illinois on June 26, 2025, in lieu of the June 4th date.

We greatly appreciate the Court's time and consideration in this matter.

Respectfully,

/s/ David E. Moore

David E. Moore

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Enclosures

cc: Counsel of Record (via electronic mail)